

A machine that qualifies for the vending machine exemption pursuant to 35 ILCS 120/2-5(35) is not subject to use tax when purchased out-of-State. (This is a GIL).

October 18, 2001

Dear Xxxxx:

This letter is in response to your letter dated August 23, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

On August 10, Governor Ryan signed HB2113, also known as Public Act 92-0337, into law. This bill states coin-controlled vending equipment is no longer taxed, at the time sales tax is paid, on the product sold from those machines.

This bill also amended the Use Tax Act and the Service Use Tax Act. My question is: When we purchase vending machines out of Illinois, are we still obligated to pay a use tax on that equipment? A second question is: Is payment required for gumball and toy prize machines?

Notwithstanding the fact that the sales may be at retail, beginning January 1, 2002, the Retailers' Occupation Tax does not apply to sales of machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. See 35 ILCS 120/2-5(35).

The purchaser of such exempt machines or parts would not incur the complementary Use Tax. This means that a purchaser of exempt vending machines outside of Illinois does not incur an Illinois Use Tax liability when the machine is brought into Illinois.

Please be advised the exemption is only available where the owner, operator or user of the machine incurs a use or occupation tax liability. For those machines or parts where a use or occupation tax is not incurred, the exemption does not apply to sales of those machines or parts for those machines. For example, a seller does not incur Retailers' Occupation Tax on gross receipts derived from sales of items through bulk vending machines, which are vending machines that dispense unsorted confections, nuts, toys, or certain other children's items in equal portions, at random, when coins totaling \$0.50 or less are inserted, 35 ILCS 120/1. As a result, sales of bulk vending machines and parts for those machines are subject to tax.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz
Associate Counsel

KWB:msk
Enc.